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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/671,157

09/25/2003

Xiao Hui Yang

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04/05/2006

ROBERT R. WATERS, ESQ.
WATERS LAW OFFICE, PLLC
633 SEVENTH STREET
HUNTINGTON, WV 25701

EXAMINER

PREVIL, DANIEL

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,157

Applicant(s)

YANG ET AL.

Examiner

Daniel Previl

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 1,13 and 15-21 is/are rejected.
- 7) ☒ Claim(s) 2-12,14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09/25/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to communication filed on November 16, 2005.

Claim Objections

1. Claims 1-22 are objected to under 37 CFR 1.75(c) as being in improper form because the claims are not double spaced.
2. Claims 3, 18, are objected to because of the following informalities: Claims 3, 18 in line 1, should read ----currently amended----- Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 13, 15-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Nguyen et al. (US 5,426,419).

Regarding claim 1, Nguyen discloses an electronic article surveillance tag (abstract) comprising a tag housing 1 (fig. 1; col. 4, lines 48-54); a tack 4 consisting of a tack head and a tack shaft wherein tack shaft is inserted through a portion of the article to be protected and into a first opening in tag housing (fig. 1-fig. 2; col. 5, lines 18-45); a releasable ball bearing clutching means within tag housing for retaining a portion of tack shaft within tag body (fig. 1; col. 5, lines 28-32); a second opening in tag housing for insertion of a probe which operates to

release ball bearing clutching means (fig. 1; col. 5, lines 56-63; col. 6, lines 14-22); and a sensor means contained within housing (col. 9, lines 44-50).

Regarding claim 13, Nguyen discloses tag housing is constructed of two pieces of hard plastic (col. 4, lines 59-62).

Regarding claim 15, Nguyen discloses tack shaft features regions of varied diameter in order to assist clutching means in maintaining a tight grip on shaft during retention of shaft in housing (fig. 1).

Regarding claim 16, Nguyen discloses shaft features one or more regions wherein shaft is flattened (fig. 1).

Regarding claims 17-19, Nguyen discloses an electronic article surveillance tag (abstract) comprising a tag housing 1 (fig. 1; col. 4, lines 48-54); a tack 4 consisting of a tack head and a tack shaft wherein tack shaft is inserted through a portion of the article to be protected and into a first opening in tag housing (fig. 1-fig. 2; col. 5, lines 18-45); a releasable ball bearing clutching means within tag housing for retaining a portion of tack shaft within tag body (fig. 1; col. 5, lines 28-32); a second opening in tag housing for insertion of a probe which operates to release ball bearing clutching means (fig. 1; col. 5, lines 56-63; col. 6, lines 14-22); a biasing means for effecting the operation of releasable ball bearing clutching means (fig. 1; col. 5, lines 28-32) and a sensor means contained within housing (col. 9, lines 44-50).

Regarding claim 20, Nguyen discloses an electronic article surveillance tag (abstract) comprising a tag housing 1 (fig. 1; col. 4, lines 48-54); a tack 4

consisting of a tack head and a tack shaft wherein tack shaft is inserted through a portion of the article to be protected and into a first opening in tag housing (fig. 1-fig. 2; col. 5, lines 18-45); a releasable ball bearing clutching means within tag housing for retaining a portion of tack shaft within tag body (fig. 1; col. 5, lines 28-32); a second opening in tag housing for insertion of a probe which operates to release ball bearing clutching means (fig. 1; col. 5, lines 56-63; col. 6, lines 14-22); a biasing means for effecting the operation of releasable ball bearing clutching means (fig. 1; col. 5, lines 28-32) and a sensor means contained within housing (col. 9, lines 44-50).

Regarding claim 21, Nguyen discloses the release of tack shaft from tag accomplished by compressing biasing means by insertion of a probe into second opening in housing (fig. 6A).

Allowable Subject Matter

3. Claim 22 is allowed.
4. Claims 2-12, 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. The following is a statement of reasons for the indication of allowable subject matter: In combination with all the limitations in the claim, the prior arts fail to teach or make obvious: ball bearing clutching means comprises a set of three ball bearings retained within a spindle which generally retains the balls in a spaced relationship to

each other, spindle incorporating a central aperture which is oriented directly beneath first opening in tag housing such that tack shaft is inserted through the central aperture of spindle.

Response to Arguments

6. Applicant's arguments filed on November 16, 2005 have been fully considered but they are not persuasive.

According to Applicant's argument on page 12 "Nguyen does not disclose a releasable ball bearing clutching means". The examiner respectfully disagrees with the Applicant because Nguyen clearly discloses releasing the tack body 4 which is a ball in the area 4A and clutch of the jaws (fig. 1; col. 7, lines 46-52).

For at least the above reason, the rejection of claims 1, 13, 15-21 is sustained.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Okuno (US 6,474,117) discloses an antitheft device.

Hogan (US 6,052,876) discloses a versatile attachment mechanism for theft deterrent tags.

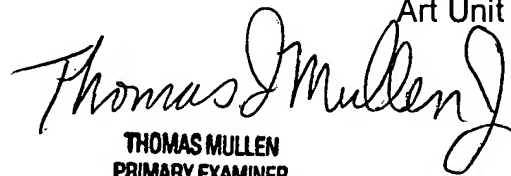
Spagna (US 6,896,133) discloses an anti-theft compact disc/dvd storage case.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Previl whose telephone number is (571) 272-2971. The examiner can normally be reached on Monday-Thursday. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP
March 24, 2006.


THOMAS MULLEN
PRIMARY EXAMINER
AU 2612

Daniel Previl
Examiner
Art Unit ~~2636~~ 2612